

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

Crl.MC.No. 897 of 2007()

CC.157/2003 of JUDL.MAGISTRATE OF FIRST CLASS COURT, OTTAPPALAM

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PETITIONER:

SANDEEP,S/O.SISUPALAN,SALINIMANDIRAM,
MIANNOOR,KOLLAM.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

STATE OF KERALA,REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA AT
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26/03/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.897 of 2007

Dated this the 26th day of March, 2007

ORDER

The petitioner faces allegations under Section 379 I.P.C. Trial is over and the matter was posted for judgment, it is submitted. On the date when the case was posted for judgment, the petitioner could not appear before the learned Magistrate. The learned Magistrate has issued a nonailable warrant of arrest against the petitioner to procure the presence of the petitioner. Matter stands posted to 29.3.2007. Notice to sureties has also been ordered. The petitioner submits that his absence was not wilful and occurred due to reasons beyond his control. He apprehends that if he appears and applies for bail, his application for bail may not be considered on merits, in accordance with law and expeditiously. In these circumstances, it is prayed that directions under Section 482 Cr.P.C may be invoked in his favour.

2. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not appear on the last date of posting. Sufficient general directions have

already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339]. Every court must do the same. No special or specific direction appears to be necessary.

3. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner today itself.

(R.BASANT, JUDGE)

rtr/-